



Senate

File No. 1029

General Assembly

January Session, 2009

(Reprint of File No. 678)

Substitute Senate Bill No. 1157
As Amended by House Amendment
Schedules "A" and "B"

Approved by the Legislative Commissioner
May 30, 2009

**AN ACT CONCERNING THE INTEREST EARNED ON LAWYERS'
CLIENTS' FUNDS ACCOUNT PROGRAM AND THE TRANSFER OF
CERTAIN COURT FEES TO FUND SUCH PROGRAM.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 52-258 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2009*):

3 The jury fee in civil actions shall be [three hundred fifty] four
4 hundred twenty-five dollars to be paid at the time the case is claimed
5 for the jury by the party at whose request the case is placed upon the
6 jury docket. The jury fee shall be taxed in favor of the party paying the
7 jury fee in the bill of costs in the action, if final judgment thereon is
8 rendered in [his] such party's favor.

9 Sec. 2. Section 52-259 of the general statutes is repealed and the
10 following is substituted in lieu thereof (*Effective July 1, 2009*):

11 (a) There shall be paid to the clerks for entering each appeal or writ
12 of error to the Supreme Court, or entering each appeal to the Appellate
13 Court, as the case may be, two hundred fifty dollars, and for each civil

14 cause in the Superior Court, [two] three hundred [twenty-five] dollars,
15 except (1) one hundred twenty dollars for entering each case in the
16 Superior Court in which the sole claim for relief is damages and the
17 amount, legal interest or property in demand is less than two thousand
18 five hundred dollars and for summary process, landlord and tenant
19 and paternity actions, and (2) there shall be no entry fee for making an
20 application to the Superior Court for relief under section 46b-15 or for
21 making an application to modify or extend an order issued pursuant to
22 section 46b-15. If the amount, legal interest or property in demand by
23 the plaintiff is alleged to be less than two thousand five hundred
24 dollars, a new entry fee of seventy-five dollars shall be charged if the
25 plaintiff amends his or her complaint to state that such demand is not
26 less than two thousand five hundred dollars.

27 (b) The fee for the entry of a small claims case shall be thirty-five
28 dollars. If a motion is filed to transfer a small claims case to the regular
29 docket, the moving party shall pay a fee of seventy-five dollars.

30 (c) There shall be paid to the clerk of the Superior Court by any
31 party who requests that a matter be designated as a complex litigation
32 case the sum of [two hundred fifty] three hundred twenty-five dollars,
33 to be paid at the time the request is filed.

34 (d) There shall be paid to the clerk of the Superior Court by any
35 party who requests a finding of fact by a judge of such court to be used
36 on appeal the sum of twenty-five dollars, to be paid at the time the
37 request is filed.

38 (e) There shall be paid to the clerk of the Superior Court a fee of
39 seventy-five dollars for a petition for certification to the Supreme
40 Court and Appellate Court.

41 (f) [Such clerks shall also receive] There shall be paid to the clerk of
42 the Superior Court for receiving and filing an assessment of damages
43 by appraisers of land taken for public use or the appointment of a
44 commissioner of the Superior Court, two dollars; for recording the
45 commission and oath of a notary public or certifying under seal to the

46 official character of any magistrate, ten dollars; for certifying under
47 seal, two dollars; for exemplifying, twenty dollars; for making all
48 necessary records and certificates of naturalization, the fees allowed
49 under the provisions of the United States statutes for such services;
50 and for making copies, one dollar a page.

51 (g) There shall be paid to the clerk of the Superior Court for a copy
52 of a judgment file a fee of twenty-five dollars, inclusive of the fees for
53 certification and copying, for a certified copy and a fee of fifteen
54 dollars, inclusive of the fee for copying, for a copy which is not
55 certified; and for a copy of a certificate of judgment in a foreclosure
56 action, as provided by the rules of practice and procedure, twenty-five
57 dollars, inclusive of the fees for certification and copying.

58 (h) There shall be paid to the clerk of the [court] Superior Court a fee
59 of one hundred seventy-five dollars at the time any application for a
60 prejudgment remedy is filed.

61 (i) A fee of twenty dollars for any check issued to the court in
62 payment of any fee which is returned as uncollectible by the bank on
63 which it is drawn may be imposed.

64 (j) The tax imposed under chapter 219 shall not be imposed upon
65 any fee charged under the provisions of this section.

66 Sec. 3. Section 52-259c of the general statutes is repealed and the
67 following is substituted in lieu thereof (*Effective July 1, 2009*):

68 (a) There shall be paid to the clerk of the Superior Court upon the
69 filing of any motion to open, set aside, modify or extend any civil
70 judgment rendered in Superior Court a fee of thirty-five dollars for any
71 housing matter, a fee of twenty-five dollars for any small claims matter
72 and a fee of [seventy] one hundred twenty-five dollars for any other
73 matter, except no fee shall be paid upon the filing of any motion to
74 open, set aside, modify or extend judgments in juvenile matters or
75 orders issued pursuant to section 46b-15 or upon the filing of any
76 motion pursuant to subsection (b) of section 46b-63. Such fee may be

77 waived by the court.

78 (b) Upon the filing of a motion to open or reargue a judgment in any
79 civil appeal rendered by the Supreme Court or Appellate Court or to
80 reconsider any other civil matter decided in either court, the party
81 filing the motion shall pay a fee of [seventy] one hundred twenty-five
82 dollars.

83 Sec. 4. Subsection (a) of section 52-361a of the general statutes is
84 repealed and the following is substituted in lieu thereof (*Effective July*
85 *1, 2009*):

86 (a) If a judgment debtor fails to comply with an installment
87 payment order, the judgment creditor may apply to the court for a
88 wage execution. The application shall contain the judgment creditor's
89 or [his] the judgment creditor's attorney's statement setting forth the
90 particulars of the installment payment order and of the judgment
91 debtor's failure to comply. The application shall be accompanied by a
92 fee of [thirty-five] seventy-five dollars payable to the clerk of the court
93 for the administrative costs of complying with the provisions of this
94 section which fee may be recoverable by the judgment creditor as a
95 taxable cost of the action.

96 Sec. 5. (NEW) (*Effective July 1, 2009*) The Chief Court Administrator,
97 or a designee, on or before the last day of January, April, July and
98 October in each year, shall certify the amount of revenue received as a
99 result of any fee increase that takes effect July 1, 2009, set forth in
100 sections 52-258, 52-259, 52-259c and 52-361a of the general statutes,
101 each as amended by this act, and transfer such amount to the
102 organization administering the program for the use of interest earned
103 on lawyers' clients' funds account pursuant to section 51-81c of the
104 general statutes, as amended by this act, for the purpose of funding the
105 delivery of legal services to the poor.

106 Sec. 6. Section 51-81c of the general statutes is repealed and the
107 following is substituted in lieu thereof (*Effective October 1, 2009*):

108 (a) A program for the use of interest earned on lawyers' clients'
109 funds accounts is hereby established. The organization administering
110 the program shall use such interest to provide funding for (1) the
111 delivery of legal services to the poor by nonprofit corporations whose
112 principal purpose is providing legal services to the poor, and (2) law
113 school scholarships based on financial need. Each lawyer and law firm
114 having a clients' funds account shall participate in the program. On
115 and after July 1, 2005, each entity, other than a borrower, having an
116 account established to receive loan proceeds from a mortgage lender,
117 as defined in this subsection, shall participate in the program. Under
118 the program, funds in accounts established to receive such loan
119 proceeds, regardless of the amount or period held, and [clients'] a
120 client's funds that [are less than ten thousand dollars in amount or
121 expected to be held for a period of not more than sixty business days]
122 the client's lawyers and law firms determine, in good faith, cannot earn
123 income for the client in excess of the costs incurred to secure such
124 income, shall be deposited by participating lawyers, law firms and
125 entities in interest-bearing accounts specifically established pursuant to
126 the program. Funds deposited in such accounts shall be subject to
127 withdrawal upon request by the depositor and without delay. The
128 interest earned on such accounts shall be paid to an organization
129 qualified under Section 501(c)(3) of the Internal Revenue Code of 1986,
130 or any subsequent corresponding internal revenue code of the United
131 States, as from time to time amended, which shall be designated to
132 administer the program by the judges of the Superior Court pursuant
133 to subsection [(b)] (d) of this section. Nothing in this section shall
134 prevent (A) a lawyer or law firm from depositing a client's funds,
135 regardless of the amount of such funds or the period for which such
136 funds are expected to be held, in a separate interest-bearing account
137 established on behalf of and for the benefit of the client, or (B) an entity
138 from depositing a person's loan proceeds, regardless of the amount of
139 such proceeds or the period for which such proceeds are expected to
140 be held, in a separate interest-bearing account established on behalf of
141 and for the benefit of the person. The organization administering the
142 program shall mail to each lawyer, law firm and entity participating in

143 the program a detailed annual report of all funds disbursed under the
144 program including the amount disbursed to each recipient of funds.
145 Any recipient of funds under the program which, using program
146 funds, represents a party in an action filed after July 1, 1992, against
147 the state or any officer or agency thereof and is awarded attorney's fees
148 in such action by the court, shall reimburse the program for the
149 amount of attorney's fees received in proportion to the percentage of
150 program funds used for the litigation. No recipient of funds under the
151 program may use such funds to pay the occupational tax imposed
152 pursuant to section 51-81b on behalf of any attorney. As used in this
153 section, "mortgage lender" means any person engaged in the business
154 of making mortgage loans, including, but not limited to, a bank, out-
155 of-state bank, Connecticut credit union, federal credit union, out-of-
156 state credit union, mortgage lender or mortgage correspondent lender
157 required to be licensed under sections 36a-485 to 36a-498a, inclusive.

158 (b) For the purpose of determining under subsection (a) of this
159 section whether a client's funds cannot earn income for the client in
160 excess of the costs incurred to secure such income, the lawyer or law
161 firm shall consider the following factors: (1) The amount of the funds
162 to be deposited; (2) the expected duration of the deposit, including the
163 likelihood of delay in resolving the relevant transaction, proceeding or
164 matter for which the funds are held; (3) the rates of interest, dividends
165 or yield at eligible institutions where the funds are to be deposited; (4)
166 the costs associated with establishing and administering interest-
167 bearing accounts or other appropriate investments for the benefit of
168 the client, including service charges, minimum balance requirements
169 or fees imposed by the eligible institutions; (5) the costs of the services
170 of the lawyer or law firm in connection with establishing and
171 maintaining the account or other appropriate investments; (6) the costs
172 of preparing any tax reports required for income earned on the funds
173 in the account or other appropriate investments; and (7) any other
174 circumstances that affect the capability of the funds to earn income for
175 the client in excess of the costs incurred to secure such income.

176 (c) No lawyer shall be subject to a complaint that the lawyer is

177 guilty of misconduct for determining in good faith to deposit funds in
178 the interest earned on lawyers' clients' funds account in accordance
179 with this section.

180 [(b)] (d) The judges of the Superior Court shall adopt rules to
181 implement the program for the use of interest earned on lawyers'
182 clients' funds accounts, provided nothing in this section shall grant to
183 the judges of the Superior Court or any other judicial authority any
184 legislative, regulatory or rule-making authority over banks, insurance
185 companies or other financial institutions.

186 [(c)] (e) The program shall not require the banking corporations or
187 financial institutions receiving such funds, holding such accounts and
188 paying interest on such accounts to the depositors of the account to
189 perform any additional administrative functions or assume any
190 additional responsibilities or obligations in connection with the
191 program or the accounts so maintained.

192 [(d)] (f) An advisory panel shall be established to perform the
193 functions described in subsection [(e)] (g) of this section consisting of
194 five members to be selected as follows: Three members shall be
195 appointed by the Governor, one of whom shall be an executive
196 director of a nonprofit corporation which provides legal services to the
197 poor in this state; and two members shall be appointed by the
198 cochairpersons of the joint standing committee of the General
199 Assembly having cognizance of matters relating to the judiciary. Each
200 member of the panel shall serve for a term which is coterminous with
201 the term of the member's appointing authority. A vacancy shall be
202 filled by the original appointing authority for the balance of the
203 unexpired term.

204 [(e)] (g) The advisory panel shall: (1) Consult with and make
205 recommendations to the tax-exempt organization administering the
206 program regarding the implementation and administration of the
207 program, including the methods of allocation and the allocation of
208 funds to be disbursed under the program; (2) review and evaluate, and

209 monitor the impact of the program; and (3) report on the program to
210 the joint standing committees of the General Assembly having
211 cognizance of matters relating to the judiciary and to banks and to the
212 Chief Court Administrator, as may from time to time be requested by
213 such committees or administrator.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009</i>	52-258
Sec. 2	<i>July 1, 2009</i>	52-259
Sec. 3	<i>July 1, 2009</i>	52-259c
Sec. 4	<i>July 1, 2009</i>	52-361a(a)
Sec. 5	<i>July 1, 2009</i>	New section
Sec. 6	<i>October 1, 2009</i>	51-81c

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill raises several court filing fees, which is anticipated to generate annual revenue of approximately \$7.7 million beginning in FY 10. Under the bill, this revenue is to be allocated entirely to the non-state entity¹ responsible for administering the Interest on Lawyers' Trust Accounts program in order to support the provision of civil legal aid to the indigent.

House Amendment "A" eliminates the bill's increase to the attorney occupational tax and its expansion of that tax to include governmental employees, which reduces the bill's revenue gain by \$2.6 million. This amendment also eliminates the provision of the bill that would allocate a portion of the revenues generated, estimated to be \$3.85 million annually, to the Judicial Department in order to support information technology initiatives. This amendment increases, from approximately \$6.4 million to \$7.7 million, the estimated annual revenue to be provided for legal aid.

House Amendment "B" revises the guidelines for participation in the Interest on Lawyers' Trust Accounts program, which the Connecticut Bar Foundation administers in order to support civil legal defense for indigent persons. These revisions could enhance revenue to the program. Since the program is not administered by a governmental entity, there is no fiscal impact to either the state or municipalities

¹ The Connecticut Bar Foundation administers this program.

under the amendment.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 1157 (as amended by House "A" and "B")******AN ACT CONCERNING FUNDING FOR LEGAL SERVICES AND JUDICIAL BRANCH TECHNOLOGY.*****SUMMARY:**

This bill increases certain court filing fees and requires the chief court administrator, or a designee, by the last day of January, April, July, and October to:

1. certify the amount of revenue received as a result of the bill's fee increases, and
2. transfer that amount to the organization administering the IOLTA (interest on lawyer's trust accounts) program, to fund the delivery of legal services to the poor.

This bill alters funding for legal services for the poor and scholarships for low-income law school students by extending participation requirements in IOLTA. Currently, (1) lawyers may deposit in interest-bearing IOLTA accounts clients' funds that are less than \$10,000 or expected to be held for 60 days or less, and (2) entities, other than borrower's, having an account to established to receive loan proceeds from a mortgage lender, may deposit loan proceeds, regardless of amount or duration.

The bill allows IOLTA participation for clients' fund proceeds regardless of the amount or the expected duration of the deposit. Lawyers can participate unless they determine in good faith that they can earn more for a client than it would cost to set up a separate interest-bearing account for the client. As under existing law, lawyers and mortgage lenders (1) must promptly turn funds over to their client

on request and (2) can choose to deposit a client's funds or loan proceeds, regardless of the amount or period for which they are expected to be held, in a separate interest-bearing account established for the benefit of that client.

Lawyers who determine in good faith to deposit funds in IOLTA accounts cannot be disciplined for doing so.

*House Amendment "A" eliminates the provision that requires the chief court administrator to establish and administer a fund known as the Data Processing Revolving Fund, which must be used to maintain and improve the Judicial Department's informational data processing system. It eliminates the requirement that half of the revenue from the fee increase be deposited in the revolving fund to maintain and improve the data processing system. It also alters some of the fee increases and eliminates some others, including fees for small claims cases.

*House Amendment "B" adds the provisions concerning funding for legal services by extending IOLTA participation requirements.

EFFECTIVE DATE: July 1, 2009.

INCREASED FILING FEES

The bill increases the following court fees:

1. the jury fee in civil actions, from \$350 to \$425;
2. the filing fee for bringing a case in the Superior Court, from \$225 to \$300;
3. designation of a case as a complex litigation case from \$250 to \$325;
4. application for a prejudgment remedy, from \$100 to \$175;
5. a motion to open, set aside, modify, or extend any Superior Court civil judgment from \$70 to \$125 (small claims cases stay at

\$25 and housing cases at \$35);

6. filing a motion to open or reargue a judgment in any civil appeal rendered by the Supreme Court or Appellate Court or to reconsider any other civil matter decided in either court from \$70 to \$125; and
7. application by a judgment creditor for a wage execution against a judgment debtor who fails to comply with an installment payment order, from \$35 to \$75.

FACTORS TO BE CONSIDERED IN DECIDING WHETHER TO PARTICIPATE

Under the bill, lawyers must consider the following in determining whether to deposit a client's funds in an IOLTA account:

1. the amount of the funds to be deposited;
2. the expected duration of the deposit, including the likelihood of delay in resolving the relevant transaction, proceeding, or matter for which the funds are held;
3. the interest rates, dividends, or yield at eligible institutions where the funds are to be deposited;
4. the costs associated with establishing and administering interest-bearing accounts or other appropriate investments for the client's benefit, including service charges, minimum balance requirements, or fees;
5. the costs of the lawyer's or law firm's services for establishing and maintaining the account or other appropriate investments;
6. the costs of preparing any tax reports required for income earned on the funds; and
7. any other circumstances that affect the capability of the funds to earn income for the client in excess of the costs incurred to

secure the income.

BACKGROUND

IOLTA

IOLTA is a method of raising money for charitable purposes, primarily for funding legal services for the poor. In Connecticut, interest earned on IOLTA accounts is managed by the Connecticut Bar Foundation, which distributes it to legal services providers and low-income law students who have applied for scholarships.

Legislative History

The Senate amended File 678 by adding Senate Amendment "A," which (1) eliminated the provisions in the bill that increased the annual attorney occupational tax and directed that the increased revenue be used to fund legal services and Judicial Branch technology projects; (2) increased court filing fees more than the file copy did; and (3) mandated, instead of authorized, the chief court administrator to establish and administer the Judicial Data Processing Revolving Fund. House "A" eliminates Senate "A."

Related Bill

SB 1160, (File 686), reported favorably by the Judiciary Committee, alters the rules for participating in IOLTA. House "B" is basically the same as File 686 as amended by Senate "A."

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 39 Nay 0 (03/27/2009)

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 41 Nay 7 (05/12/2009)